

**GROUND RULES
FOR THE TENANT-BASED SECTION 8 NEGOTIATED RULEMAKING
ADVISORY COMMITTEE**

I. Purpose

The purpose of the Tenant-based Section 8 Negotiated Rulemaking process is to build agreement among all the stakeholding groups regarding updating and implementing the rule concerning allocation of renewal funding to public housing agencies, in accordance with the Quality Housing and Work Responsibility Act of 1998. The purpose of the negotiated rulemaking is to enable staff in the Department's office of Public and Indian Housing (PIH) to seek technical assistance and advice from public housing agencies that administer the tenant-based Section 8 program, public and private rental housing industry associations, organizations that represent the interests of lower-income households and other interested and affected stakeholders in order to develop a rule for the allocation of Section 8 funding.

While the process will be advisory, it is the stated intent of the Deputy Assistant Secretary for Public and Assisted Housing Delivery to give priority consideration to the draft rule provided by the advisory committee in proposing an official rule if the committee reaches consensus on the draft rule. In the event that unanimity is not possible, but the committee has reached overwhelming agreement and every effort has been made to respond to the concerns of all groups, the Deputy Assistant Secretary will give priority consideration to all elements of a draft rule that have overwhelming support among committee members.

II. Representation

A. Selection

Members and alternates of the Section 8 Negotiated Rulemaking Committee are appointed by the Deputy Assistant Secretary for Public and Assisted Housing Delivery, in accordance with the Federal Advisory Committee Act. A list of potential participants was published in the Federal Register on March 19, 1999 and was followed by a 30-day comment and self-nomination period. At the conclusion of this period, the membership comprised one representative (with pre-designated alternate representatives) from the following organizations:

Housing Agencies

1. Massachusetts Department of Housing and Community Development, Boston, MA

2. New Jersey Department of Community Affairs, Trenton, NJ
3. Southeastern Minnesota Multi-County Housing and Redevelopment Authority, Wabasha, MN
4. Oklahoma Housing Finance Agency, Oklahoma City, OK
5. Fort Worth Housing Authority, Fort Worth TX
6. Minneapolis Metropolitan Council Housing and Redevelopment Agency, Saint Paul, MN
7. Santa Cruz County Housing Authority, Santa Cruz, CA
8. Burlington Housing Authority, Burlington, VT
9. Michigan State Housing Development Authority, Lansing, MI
10. New York City Housing Authority, NY, NY
11. Atlanta Housing Authority, Atlanta, GA
12. Cincinnati Metropolitan Housing Authority, Cincinnati, OH
13. Housing Authority of the City of Los Angeles, Los Angeles, CA
14. Stillwater Housing Authority, Stillwater, OK
15. Spokane Housing Authority, Spokane, WA
16. Jacksonville Housing Authority, Jacksonville, FL
17. FCHA, Bay County FL
18. Alameda County Housing Authority, Alameda, CA
19. Housing Authority of New Orleans, New Orleans, LA
20. Stutsman County Housing Authority, Stutsman County, ND

Public Interest Groups

1. Center on Budget and Policy Priorities, Washington, DC
2. New Community Corporation, Newark, NJ
3. Disability Rights Action Coalition for Housing
4. Section 8 Residents Council of New Orleans, Inc., New Orleans, LA

Independent Accounting Firms

1. Fenton, Ewald & Associates, PC
2. Orion Consulting, Inc.

National/Regional PHA Associations

1. National Leased Housing Association (NLHA)
2. National Association of Housing and Redevelopment Officials (NAHRO)
3. Council of Large Public Housing Authorities (CLPHA)
4. Public Housing Authority Directors Association (PHADA)

[Note that Fenton, Ewald & Associates, PC was made an alternate due to its representatives time constraints and that the Southeast Regional Section Eight Housing Association (SERSHA) was added as a member of the committee]

Federal Government

1. U.S. Department of Housing and Urban Development

B. Role of Members

Members are expected to fully participate in all meetings of the Committee and to articulate their views and the views of their organizations and constituencies. They are also expected to keep their organizations and constituencies informed about the deliberations and to actively seek their input. To this end, members should make an effort to stay in contact with all relevant individuals and groups with regard to the subject and the results of each meeting.

C. Role of Alternates

Each member may designate one alternate from his/her organization. If a member is unable to attend a Committee meeting, then the member's designated alternate will sit at the table and participate in the discussion.

Alternates will be on the mailing lists and will receive copies of all meeting summaries, reports, handouts, and other documents necessary to keep informed of the process so that they will be ready at any time to participate.

Alternates are encouraged to attend all meetings in order to keep informed about the progress of the Committee's deliberations. To the extent that time permits, alternates may be able to address the Committee on a particular issue under discussion. If any working groups are formed, alternates may participate fully in their discussions.

D. Role of Advisors

Members and alternates may actively seek out the support and input of advisors who can aid them in expressing their concerns and interests and provide members the information necessary to develop options and make decisions. Advisors will not be allowed to speak for members or alternates at the table. However, they may confer with members by speaking to them away from the table during negotiations, at breaks, or when members call for caucuses with their advisors and/or constituents during the deliberations.

E. Role of Other Members of the Public

Meetings are open to the public and to observers. The facilitators will put a public comment period on the agenda for each meeting. Upon deliberation and consensus agreement by the entire committee, non-members may be invited to participate in a meeting and/or comment on specific issues outside the public comment period.

III. Primary Responsibilities of Members and Alternates

Members and alternates agree to:

- 1) Attend all of the regularly scheduled meetings;
- 2) Arrive at each meeting fully prepared to discuss the issues on the agenda. Preparation will include reviewing meeting summaries, technical information, and drafts of single text draft documents distributed in advance of each meeting;
- 3) Present their own views and the views of their organization and/or constituency on the issues being discussed;
- 4) Be willing to engage in respectful, constructive dialogue with other members of the group;
- 5) Strive throughout the process to bridge gaps in understanding, to seek creative resolution of differences, and to commit to the goal of achieving consensus on the contents of the regulations under discussion.

IV. Decision Making

The purpose of the process is to share information, discuss concerns and viewpoints, and build consensus. The group will operate by consensus, and every effort will be made to meet the interests of all the participating stakeholder groups.

A. Definition of Consensus

Consensus means that there is no dissent by any member. There will be no formal votes taken during deliberations. No one member can be outvoted. Members should not block or withhold consensus unless they have serious reservations with the approach or solution that is proposed for consensus. If members disagree with the approach or solution selected by the rest of the group, they should make every effort to offer an alternative satisfactory to all stakeholders.

Members should remain at the table during deliberations to hear the full discussions in order to make informed judgments when decision-making occurs. Absence will be equivalent to not dissenting. Any consensus achieved on a specific issue will be tentative pending an agreement on all the issues being considered by the group.

B. Interaction with the Deputy Assistant Secretary for Public and Assisted Housing Delivery

The goal of the process is to develop a written draft rule on the allocation of tenant-based Section 8 renewal funding to clearly inform the Deputy Assistant Secretary who must promulgate a rule under the Quality Housing and Work Responsibility Act of 1998. Upon receipt of a consensus draft rule, the Deputy Assistant Secretary and other HUD staff will give priority consideration to the consensus of the group in drafting the official rule. The official draft rule will be circulated to Committee members for review, and HUD will indicate the reasons for any significant changes from the Committee's draft rule.

In the event that the Committee is not able to reach consensus on all elements of the draft rule, the Deputy Assistant Secretary and other HUD staff will give priority consideration to all elements of the advisory draft rule that have overwhelming support from the Committee.

C. Dispute Resolution Mechanism

If any member(s), after conferring with their organization(s) and/or constituency(ies), believe that any portion of the official draft rule has not met the intent of the Committee's advisory draft, the member(s) shall contact the facilitators. Subsequently, the facilitators will assist the Deputy Assistant Secretary and the Committee member(s) in an effort to resolve whatever differences have emerged. If a satisfactory solution cannot be achieved through informal discussion, then member(s) may call for the reconvening of the Committee.

If needed, the facilitators will reconvene a single meeting of the Committee within six weeks of the circulation of the official draft rule by HUD. All members will work with the Deputy Assistant Secretary at this meeting to resolve any and all outstanding issues.

Upon completion of this dispute resolution meeting and any amendments to the official draft rule (if necessary), the Deputy Assistant Secretary will publish the official draft rule in the Federal Register to initiate the formal promulgation process as required by law.

D. Support for the Consensus-based Official Rule

If the Committee produces a consensus draft rule and HUD adheres to that rule in promulgating an official rule, members agree to support and advocate for the official rule within their own organizations and stakeholder groups as well as with the public. If consensus is reached, members agree to refrain from commenting negatively on the official rule.

To the extent that the Committee does not reach consensus on some or all issues, members shall retain the right to comment negatively on those aspects of the official rule that are not based on a consensus of the Committee.

V. Communication

Participation in discussions will be restricted to the members seated at the table, unless the facilitator sets aside time on the agenda for others to speak. In order to facilitate an open and collaborative discussion, all those seated at the table will seek to abide by the following rules:

- 1) Only one person will speak at a time and no one will interrupt when another person is speaking;
- 2) Each person will express his or her own views rather than speaking for others at the table;
- 3) No one will make personal attacks or issue statements blaming others for specific actions or outcomes;
- 4) Each person will make every effort to stay on track with the agenda, avoid speechmaking and avoid digressions in order to move the deliberations forward.
- 5) Each person will strive to maintain a sense of humor, listen well, and be open-minded.

Members are expected to communicate concerns, interests and ideas openly and to make the reasons for their disagreements clear. In the event that a member is unable to speak about a concern directly to another member, he or she can contact the facilitators by phone (or in person). The facilitators will serve as a channel for such concerns. Upon request, all information or views shared during conversations with the facilitators will be kept confidential.

VI. Role of Facilitators

Facilitation will be provided by the Consensus Building Institute under the lead of Professor Lawrence Susskind and David Fairman, Ph.D. The members of the facilitation team will:

- 1) formulate the agenda for all meetings and facilitate these proceedings;
- 2) coordinate joint fact-finding by the Committee, in collaboration with Andersen Consulting, the technical contractor for the Committee;
- 3) identify and synthesize points of agreement and disagreement and communicate these in the form of written meeting summaries (see below for further detail);
- 4) prepare single text drafts of elements of a proposed rule between meetings to serve as a basis for deliberations;
- 5) assist in building consensus among members;
- 6) ensure compliance with all the ground rules;
- 7) serve as a confidential communication channel for members, alternates or observers who wish to express views but do not feel comfortable addressing the full group;
- 8) advocate for a fair , effective, and credible process, but remain utterly nonpartisan with respect to the outcome of the deliberations;
- 9) communicate the results of the process to the Deputy Assistant Secretary for Public and Assisted Housing Delivery and her designated assistants ; and
- 10) facilitate discussions between members, the full Committee, and the Deputy Assistant Secretary, if necessary, to resolve disagreements over the official draft rule.

The facilitation team will prepare a summary of each meeting. The summary will include the key points of discussion as well as items of agreement and disagreement described without attribution. A draft version will be sent to members and alternates after each meeting. Approval of the summary will occur at the following meeting, after the facilitators take note of any proposed additions, corrections, or clarifications. If substantial changes are made, a revised version will be sent to members and alternates, as well as any observers who wish to receive it. Attendance will be kept at each

meeting, and a roster of the those in attendance will be mailed out with each meeting summary.

The facilitation team can be reached at the Consensus Building Institute, 1-800-433-3043.

VII. Working Groups

The Committee may establish working groups to undertake more in-depth discussion or carry out discrete tasks. These working groups will meet between meetings of the full group and report back on the results of their discussions when asked to do so. The representation, roles, and responsibilities of the members of working groups will be determined by the full Committee.

VIII. Media

All meetings will be open to the public, including members of the media. Members of the media will have the same status as members of the general public during meetings. Press conferences will not be held in conjunction with these meetings. However, the facilitators may periodically produce draft press releases for approval by the members, to keep the media informed of the on-going deliberations.

Members and alternates are free to make statements to the press regarding their own opinions, but agree to not attribute statements to others involved in the process. No member or alternate should presuppose to speak for the group as a whole. In order to facilitate productive deliberations, members and alternates will make every effort to abide by the ground rules under the section "Communication" listed above while interacting with the media.

If an article or report appears that misquotes or inaccurately represents an individual, that individual should inform the group of that occurrence as soon as possible.